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UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

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In re:

CLAUDIA OBERMILLER, an individual,)	AWA Docket No. 15-0173
)	
)	
Respondent.)	
)	CONSENT DECISION AND
)	ORDER

This proceeding was instituted under the Animal Welfare Act, as amended (7 U.S.C. §§ 2131 et seq.)(AWA or Act), by a complaint filed by the Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture, alleging that the Respondent violated the regulations and standards issued pursuant to the Act (9 C.F.R. § 1.1 et seq.)(Regulations and Standards). The parties have agreed that this Consent Decision should be issued in accordance with the consent decision provisions of the applicable rules of practice (7 C.F.R. § 1.138).

Respondent admits the jurisdictional allegations in the complaint and specifically admits that the Secretary has jurisdiction in this matter, neither admits nor denies the remaining allegations, waives oral hearing and further procedure, and consents and agrees, for the purpose of settling this proceeding and for such purpose only, to the entry of this decision.

Findings of Fact

1. Respondent Claudia Obermiller is an individual who resides in Farwell, Nebraska. At all times mentioned herein, respondent was a dealer, as that term is used in the Act and the Regulations, and held AWA license number 47-A-0295.

2. On February 27, 2014, and April 8, 2014, respondent failed to provide APHIS with access for inspection and/or to have a responsible adult available to accompany APHIS officials during inspection.
3. On or about the following dates, respondent failed to provide adequate veterinary care to animals, and failed to establish and maintain programs of adequate veterinary care that included appropriate methods to prevent, control, diagnose, and treat diseases and injuries, and/or daily observation of animals, in willful violation of the Regulations.
 - a. May 16, 2012. An adult female Persian cat (Snowflake) had drainage around the inside corner of her left eye socket (the eye having previously been removed), and Snowflake had not been seen by a veterinarian.
 - b. May 16, 2012. An adult exotic cat (Polar Sun or Natalie Detroit) had frequent, semi-formed to loose stools and neither cat had been seen by a veterinarian.
 - c. April 10, 2014. A female seal point ragdoll cat (Rainey), bearing tag number 45, was squinting, her eyelids were pink and inflamed, and there was discharge in the inner corners of her eye and a dark, crusty discharge around each eye, and Rainey had not been seen by a veterinarian for these conditions.
 - d. April 10, 2014. A female seal point ragdoll cat (Spring), bearing tag number 12, was squinting, her third eyelids were raised, and there was a moderate amount of light brown and dark brown crust around both eyes, and Spring had not been seen by a veterinarian for these conditions.
 - e. April 10, 2014. The right eye of a female black and white Persian cat (Sue), bearing tag number 31, was observed to have had a moderately cloudy surface, a thick, greyish-brown discharge in the inner corner and lower eyelid, and dark and crusty

discharge underneath.

f. April 10, 2014. A male Bengal cat bearing tag number 9 had an untreated open wound at the base of his left ear.

g. May 1, 2014. The female seal point ragdoll cat (Spring), bearing tag number 12, that was identified as having eye problems in April 2014, was again observed to have deteriorated, and specifically Spring was lethargic and reluctant to rise, and was unable to open her eyes, which were sealed shut with a thick yellow discharge, and respondent failed to follow-up with her attending.

h. May 1, 2014. The A female seal point ragdoll cat (Rainey), bearing tag number 45, that was identified as having eye problems in April 2014, was again observed to be squinting, with inflamed eyelids and a discharge around both eyes, and respondent failed to follow-up with her attending veterinarian.

i. May 1, 2014. A male bluepoint ragdoll cat (Blue Ice) bearing tag number 10, was squinting in both eyes, had a crusty yellowish discharge around both eyes, and his eyelids appeared pink and inflamed.

j. August 6, 2014. Seven kittens were observed to have abnormal, untreated eye conditions.

k. August 6, 2014. A female blue lynx Persion cat (Jhoni Lynx), bearing tag number 26, had a dark-colored discharge coming from her left ear.

l. August 6, 2014. A female blue point Himalayan cat (Jewel), bearing tag number 42, was observed to be squinting in her right eye, and the eye was reddened and watering.

m. August 6, 2014. A male blue colored long-haired exotic kitten (Avalon),

bearing tag number 25, was observed to have crusted material around both eyes, and his right eye was completely obscured by crusted material and hair.

n. November 19, 2014. An adult female tortoiseshell cat (Holly), bearing tag number 22, had an abnormally rough, dry haircoat.

4. On or about the following dates, respondent failed to meet the Standards, as follows:

a. May 16, 2012. Respondent housed cats in two enclosures that contained scratching boards that had begun to splinter.

b. September 19, 2012. Respondent housed 24 cats in enclosures with litter boxes that had not been cleaned or emptied for three to four days, and that contained an excessive amount of fecal matter.

c. April 10, 2014. Respondent housed six cats in enclosures that were in disrepair, with gaps between the walls and the floors, and the areas around these gaps could not be effectively cleaned and sanitized.

d. April 10, 2014. Respondent housed ten cats in three enclosures that were not cleaned and sanitized, as evidenced by a buildup of grime, hair, and urine.

Conclusions of Law

1. On or about February 27, 2014, and April 8, 2014, respondent violated the Act and the Regulations (7 U.S.C. § 2146(a); 9 C.F.R. § 2.126), by failing to provide APHIS with access for inspection and/or to have a responsible adult available to accompany APHIS officials during inspection, in willful violation of the Act and the Regulations. 7 U.S.C. § 2146(a); 9 C.F.R. § 2.126.

2. On or about May 16, 2012, and continuing through November 19, 2014, respondent violated the Regulations (9 C.F.R. § 2.40(a), 9 C.F.R. § 2.40(b)(2), 9 C.F.R. § 2.40(b)(3)) by failing to provide adequate veterinary care to animals, and failing to establish and maintain programs of adequate veterinary care that included appropriate methods to prevent, control, diagnose, and treat diseases and injuries, and/or daily observation of animals. 9 C.F.R. § 2.40(a), 9 C.F.R. § 2.40(b)(2), 9 C.F.R. § 2.40(b)(3).

3. On or about May 16, 2012, and continuing through April 10, 2014, respondent willfully violated the Regulations (9 C.F.R. § 2.100(a)), by failing to comply with the Standards for cats (9 C.F.R. §§ 3.1-3.19).

4. Respondent having admitted the findings and conclusions set forth above, and the parties having agreed to the entry of this decision, such decision will be entered.

Order


1. Respondent, her agents and employees, successors and assigns, directly or through any corporate or other device, shall cease and desist from violating the Act and the Regulations and Standards.


2. Respondent is assessed a civil penalty of \$5,000, payable to the Treasurer of the United States on or before March 1, 2016.

3. The one-year period of time between February 1, 2016, and January 31, 2017, shall be referred to as the "probation period." The respondent agrees that if APHIS notifies respondent that it has documented a failure, during the probation period, to comply with the Act or the Regulations, to meet the minimum Standards, or to comply with this Order, upon receipt


of such notice and copies of the supporting documentation, respondent shall, without further procedure, be assessed a civil penalty of \$5,000 for each such documented failure to comply with the Act or the Regulations, to meet the minimum Standards, or to comply with this Order. The respondent further agrees to a prospective waiver of her right to notice and opportunity for an oral hearing pursuant to section 19 of the Act (7 U.S.C. § 2149) as to any such failure to comply with the Act or the Regulations, or to meet the minimum Standards. The complainant and the respondent agree that respondent may seek injunctive, declaratory or other appropriate relief in the United States District Court for the District of Nebraska or in the United States District Court for the District of Columbia.

The provisions of this order shall become effective February 1, 2016. Copies of this decision shall be served upon the parties.


Claudia Obermiller
Respondent


Colleen A. Carroll
Lauren E. Becker
Attorneys for Complainant

Done at Washington, D.C.
this 3 day of FEB, 2016



Administrative Law Judge
